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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,445	07/25/2006	Dieter Ramsauer	135408-2035	5304

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745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

MORGAN, EMILY M

ART UNIT	PAPER NUMBER
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3677

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03/27/2012

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,445	Applicant(s) RAMSAUER, DIETER	
	Examiner EMILY MORGAN	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2012.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 30-36,38 and 40-59 is/are pending in the application.
- 5a) Of the above claim(s) 32,33,38,40,41,43-52 and 58 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 30,31,34-36,42,53,54 and 59 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 24 June 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 30 and its dependents are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant claims "such that force lock is provided for support". Examiner notes no inclusion of a "force lock". Examiner notes that the spring is disclosed as having a force. Examiner also notes [0086] "has an inclined surface 38 for supporting the body part 30 without play on the rim or edge of the opening". Examiner is unsure of what this amended phrase is intended to mean. Applicant has provided no such description in the remarks. Examiner assumes applicant claims that the angle of the inclined surface is small enough to function. Examiner notes that the inclined surfaces in the prior art are angled appropriately to support the part in the desired location.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 30 and its dependents rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "small enough" in claim 30 is a relative term which renders the claim indefinite. The term "small enough" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Examiner notes that applicant has not disclosed any discussion on the angle of the inclined surface. Examiner notes that in [0099] the inclined surface is at 45 degrees, but this is in reference to a different embodiment.

Claim 59 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner notes that applicant modifies the shape of the opening of thin wall. Examiner notes that this is a modification of the intended use of the hinge part, and as such does not further define the hinge.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 31, 34-36, 42, 53, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over patent 6286185 to Ramsauer, in view of patent 1538320 to Gullong, in further view of patent 3583736 to Willimzik.

Regarding claim 30, Ramsauer discloses:

A hinge (figure 1) comprising: at least one hinge part 12 which can be mounted in an opening in a thin wall such as a sheet-metal cabinet door (abstract); a head part, such as a flange or hinge leaf (hinge part 12 is a hinge leaf, column 4, line 66), which overlaps a rim of the opening of the thin wall on an outer side (figures 24, 11, 22); a body part 240 (figures 11, 14) which proceeds from the head part (or leaf, figure 11) and can be pushed through the opening in the thin wall 160 (figure 11); and a holding part (nut 280) which is carried by the body part 240 (figure 11), supported on another rear side of the thin wall by article 280 (figure 11), and is separate from the body part 240, shown alone in figure 14. Ramsauer does not disclose the use of holding elements with inclined surfaces, or the rectangular opening.

Gullong discloses:

a head part 5, such as a flange, which overlaps a rim of the opening 2 of the thin wall on an outer side (figure 3); a body part 9 which proceeds from the head part 5 and can be pushed through the opening in the thin wall (figure 3); and a holding part (lugs 7) which is carried by the body part 9, supported on another rear side of the thin wall (figure 3), and is separate from the body part 5; said holding part 7 being formed by holding elements (lugs) which project in a resilient manner (via spring 11) from the body part 5 in the direction of its outer surface (figures 3 and 4) and whose free end has a second inclined surface which enables the holding part and the body part to be pushed through the opening, the inclined surface being inclined with respect to a plane of the thin wall (figure 3, the lugs 7 are triangularly shaped, so the lugs have two inclined surfaces). Gullong does not disclose two flat metal pieces.

Willimzik discloses:

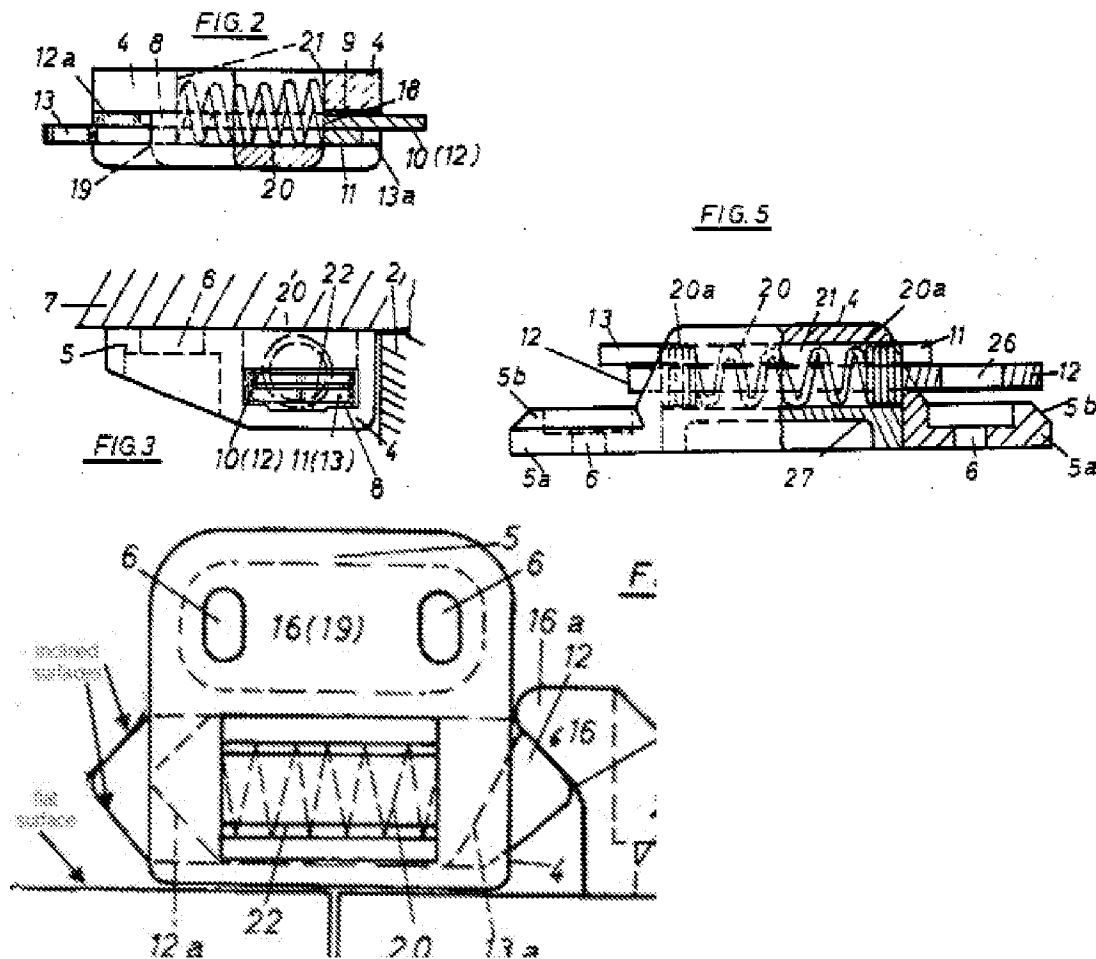
An expanding latching device similar to that taught by Gullong, having holding elements 12 and 13 are formed by two flat metal pieces lying next to one another (figure 5) with smooth surfaces, each metal piece having a rectangular opening 21, these two openings or breakthroughs together forming a rectangular space (figure 6) which receives a spiral pressure spring 20 by at least a portion of its diameter (figure 5).

Willimzik discloses two obvious variations on the relationship of the axis of the spring and the plane between the holding pieces. The first is shown in figures 2 and 3,

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shown on the left, and the second is shown in figure 5, on the right. Examiner notes that the spring axis' relationship with plane between the flat pieces depends on either: the thickness of the flat pieces 12 and 13, or; the housing 4 holds the flat pieces 12 and 13 in relation to the spring's housing space 21.

Willimzik discloses the use of inclined surfaces being small enough such that force lock is provided for support. Willimzik discloses the use of inclined surface in which the hinge retains the hinge in the desired location.



It would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate attachment method as taught by Gullong to attach the hinge as taught by Ramsauer to the thin mounting material 160. Gullong is used to attach a decorative device to a thin piece of metal 1, as shown in figures 3 and 4. It

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would have been obvious to one of ordinary skill in the art to use a thin metal connecting device to connect any article to thin metal, such as that of Ramsauer. This would be similar to using a wood screw to attach something to wood, or a sheetrock screw to attach something to sheetrock. It also would have been obvious to one of ordinary skill in the art to use an alternate locking mechanism as taught by Willimzik in place of the locking mechanism as taught by Gullong. Both have two parts that expand from a central point, both have triangularly shaped extensions, both expand according to the spring between the two parts. Examiner contends that the two lugs 7 and the spring 11 of Gullong would behave exactly the same as the two plates 12 and 13 with the spring 22 as taught by Willimzik.

It would have been an obvious matter of design choice to increase the thickness of the flat pieces 12 and 13 to fill the width of the housing space 21, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Examiner notes that by making the flat pieces half of the width of the housing space 21 that the plane between the flat pieces 12 and 13 would be coincident with the axis of the spring 20. Examiner contends that this alteration would not change the use, movement or effectiveness of the device.

Alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention to alter the location of the flat pieces in the housing 4 to follow the centerline of the housing space 21, (which is equivalent to centering the flat pieces on the spring's centerline). Note that it has been held that rearranging parts of an invention

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involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. See also, *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice). Examiner contends that Willimzik discloses that this relationship of the plane between the flat pieces and the centerline of the spring is irrelevant, as it changes between embodiments and still provides the same action as desired by Willimzik, which is the same movement desired by the applicant.

It would have been an obvious matter of design choice to alter the relationship of the flat pieces to the spring, as Applicant has not disclosed that it solves any stated problem of the prior art or is for any particular purpose. It appears that the invention would perform equally well as the invention disclosed by Willimzik.

Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Examiner contends that the italicized language above, and throughout this action, are considered intended use.

Regarding claim 31, Ramsauer as modified discloses the hinge according to Claim 30; wherein two holding elements (12 and 13 as taught by Willimzik) which are arranged diametrical to one another are provided and are acted upon by pressure

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elements such as spring arrangements 22, particularly a coil spring common to the two holding elements or two coil springs, or wedge arrangements such as conical screws (figure 5).

Regarding claim 34, Ramsauer as modified discloses the hinge according to Claim 30; wherein the holding elements (12 and 13 of Willimzik) are slides which are arranged so as to be displaceable in a channel (21 of figure 5) that lies parallel to the plane of the thin wall (figure 1) and is rectangular in cross section (figure 6) and are held against the force of a pressure spring 20 by a hook arrangement that locks between the slides themselves or in the channel.

Regarding claim 35, Ramsauer as modified discloses the hinge according to Claim 30; wherein the holding elements (12 and 13 of Willimzik) are slides of rigid material such as metal which are arranged so as to be displaceable in a channel that is parallel to the plane of the thin wall and rectangular in cross section and are held against the force of a pressure spring 20 (figure 1) by a pin arrangement that is arranged between them.

Regarding claim 36, Ramsauer as modified discloses the hinge according to Claim 34; wherein the channel has a partial dividing wall or undercut 21 or opening edge at which the slides are supported axially by a shoulder or hook (figure 2).

Regarding claim 42, Ramsauer as modified discloses the hinge according to claim 30, wherein the holding elements of Willimzik are formed by a metal piece or by two metal pieces lying next to one another which is/are held jointly by a spring in such a way that these two or three parts form a manageable unit that is stable in itself. These

pieces are formed together in Willimzik (figure 2), and can be used as an attachment pin in another function.

Regarding claim 53, Ramsauer as modified discloses the hinge according to Claim 30; wherein a second hinge part (112 of Ramsauer) which is swivelably connected to the first hinge part has a construction analogous to that of the first hinge part (figure 1 of Ramsauer).

Regarding claim 54, Ramsauer as modified discloses the hinge according to Claim 30; wherein a second hinge part which is swivelably connected to the first hinge part. Ramsauer as modified does not disclose a second hinge part with differing construction from the first hinge part. It would have been obvious to one having ordinary skill in the art at the time the invention as made to alter the shape of one leaf of a hinge, a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). This would be done in order to allow proper mounting to the hinged article, and would be altered as needed, according to available width, height, location of mounting holes, etc...

Regarding claim 59, Ramsauer as modified discloses the hinge according to claim 30, wherein at least one hinge part is *configured to be mounted in a rectangular opening in a thin wall*. Examiner notes that the device of Ramsauer as modified discloses that it is configured to be mounted in a hole in a thin wall. Examiner notes that while the cited prior art may insert the device through a round hole, examiner also notes that a square hole having a side the same length of the diameter of the hole would provide the connection as shown by Ramsauer as modified.

Response to Arguments

Applicant's arguments filed 2/21/2012 have been fully considered but they are not persuasive.

Examiner notes that applicant asserts that Ramsauer as modified does not show “angle of the inclined surface being small enough such that force lock is provided for support”, but does not disclose what this phrase means. Applicant asserts that the Willimzik device is used for a rear surface having a corresponding undercut to the inclined surface. Examiner notes that the rear surface being flat is not claimed in the claim language. Applicant also points out that Gullong discloses using a serrated surface. Examiner contends that the inclined surface is small enough to provide a locking force for the thin wall.

Applicant contends that the rectangular opening would affect “stable support”. However, as applicant states in the arguments, that the supporting sides of the rectangle are connected by a straight line. Examiner notes that this straight line has a distance covered by the two flat pieces of Willimzik. Any hole that has a dimension of that distance would be able to use the modified Ramsauer device for a connection. Since a square can have the same cross distance as a circle, as can a rectangle, as can a trapezoid, as can a triangle, as can an oval, etc...

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMILY MORGAN whose telephone number is (571)270-3650. The examiner can normally be reached on Monday-Thursday 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571)272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677

Emm
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